

Appl. No. 10/766,070

Amdt. dated June 30, 2005

Reply to Office Action dated March 31, 2005

Amendments to the Drawings:

The attached sheets of drawings include changes to Fig. 3. The sheet, which includes Fig. 3, replaces the original sheet including Fig. 3. Figure 3 was corrected to include brackets around the separated elements as suggested by the Office. Brackets were also included around the entire view since it was on the same sheet as another figure. Figure 3 is now in compliance with 37 CFR 1.84(h)(1).

The attached sheets of drawings include New Sheet Fig. 7. The sheet, which includes Fig. 7, is added to include a plurality of greeting car melters and a retail display as defined in Claims 14 and 15, respectively, in order to be in compliance with 37 CFR 1.83(a).

Attachment: Replacement Sheet and New Sheet.

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REMARKS

Applicant thanks the Office for the attention accorded the present Application in the March 31, 2005, Office Action. In that Action, the Office rejected claims 1, 2, 5, and 6 under 35 U.S.C. § 102(b) as being anticipated by Sunshine (U.S. Patent No. 3,214,010). The Office rejected claims 1-6 under 35 U.S.C. § 103(a) as being unpatentable over the Applicant's admitted prior art on page 2, paragraph 0004 in view of Sunshine and Claims 7-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's admitted prior art on page 2, paragraph 004 in view of Sunshine as applied to Claims 1-6 and further in view of Knight (U.S. Patent No. 4,440,298).

The Office has objected to the specification because the abstract of the disclosure used legal phraseology and awkward and confusing wording. Applicant has amended the abstract of the disclosure to replace "consisting essentially of" with "having" and "cavity of defined by" with "cavity defined by."

The Office also objected to the disclosure because of misspellings. Applicant has corrected the title to reflect the correct spelling of the title. Additionally, Applicant includes a copy of the originally filed page 1 of the Specification which includes the title to show that the misspelling was not an error by the Applicant but by the Office. Applicant has also corrected page 4, line 22 to reflect the correct spelling of the word "bearing." Additionally, Applicant includes a copy of the originally filed page 4 of the specification to show that the misspelling was not an error by the Applicant but by the Office.

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Applicant submits new paragraphs [0023A] and [0029A], as well as replacement paragraph [0024] that includes new Figure 7 with appropriate description.

The Office objected to drawing Figure 3 for not including brackets designating the separated elements in the drawing and to drawings not showing every feature of the invention specified in the claims. Applicant submits a substitute drawing sheet illustrating Figure 3 with the brackets. The Office also objected to the drawings because every feature of the invention specified in the claims was not shown in the drawings, i.e. the plurality of greeting card melters and the retail store display. Applicant submits new drawing sheet, Figure 7, illustrating the plurality of greeting card melters and the retail store. No new matter has been added.

35 U.S.C. §102(b) rejections

The Office has rejected Claims 1, 2, 5, and 6 as being anticipated by Sunshine. The Office states that Sunshine shows a "greeting card melter" comprising a panel enclosure consisting essentially of a shaped recess and a flange, a closure panel releasably secured against the panel enclosure, and a molded wax body having only a wax formulation disposed in a cavity defined by the shaped recess and the closure panel and substantially conforming to the shape of the cavity. Applicant respectfully traverses.

Applicant has amended Claim 1 to include the limitation that the shaped recess of the panel enclosure is block shaped and that the greeting card melter includes a greeting card message, a greeting card design, or both. The recess of the panel

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enclosure is a mold on which a hot wax formulation can be poured into and cooled to form a wax body having a block shape. (See Applicant's disclosure, paragraph [0030]). The wax body sculpts to the recess and as it cools it becomes a solid piece of hard wax. This solid piece of hard wax can be formed in various shapes, such as rectangles or circles, depending on the block shape of the recess.

Sunshine teaches a plumber's wax bowl ring wherein the wax gasket is integrated in its own mold and distribution package. Sunshine discloses a wax ring which is not blocked shaped, but annular, because it has a hole in the center of it. Further, Sunshine's wax ring does not include a greeting card message, a greeting card design, or both.

"To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." *In re Schreiber*, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997). Sunshine does not disclose a block shaped recess. The Sunshine disclosure is limited to an annular trough. Sunshine also does not disclose the inclusion of a greeting card message, a greeting card design, or both. Since Sunshine does not disclose a block shaped recess or the greeting card message, design or both, Sunshine cannot anticipate Applicant's claimed invention.

In light of the above amendment and arguments, Applicant respectfully submits that the 35 U.S.C. §102(b) rejection of Claims 1, 2, 5, and 6 have been successfully traversed. Allowance of these claims is therefore requested.

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35 U.S.C. §103(a) rejections

The Office has rejected Claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over the Applicant's admitted prior art in paragraph [0004] in view of Sunshine. The Office states that Applicant's admitted prior art in paragraph [0004] discloses the idea of molding wax tarts, wrapping the wax tarts within a clear plastic wrap, and placing a label on each wrapped tart. The Office also states that the Applicant's admitted prior art does not disclose making the packaging in the form of a panel enclosure consisting essentially of a shaped recess and a flange and a closure panel releasably secured against the panel enclosure. The Office states that Sunshine shows a package comprising a panel enclosure consisting essentially of a shaped recess and a flange, a closure panel releasably secured against the panel enclosure, and a molded wax body having only a wax formulation disposed in a cavity defined by the shaped recess and the closure panel and substantially conforming to the shape of the cavity. The Office contends that in view of the teachings of Sunshine it would have been obvious to one in the art to modify Applicant's admitted prior art in paragraph [0004] by making the packaging in the form of a panel enclosure consisting essentially of a shaped recess and a flange and a closure panel releasably secured against the panel enclosure since this would allow the wax tarts to be molded in an easier and faster manner and would allow the wax tarts to be packaged in an easier, faster, and cheaper manner. Applicant respectfully traverses.

Applicant has amended Claim 1 to include the limitation that the panel enclosure consists essentially of a block shaped recess and that the greeting card melter includes

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a greeting card message, a greeting card design, or both and that it is sized for placement into a greeting card. The wax tarts of the admitted prior art are not sized for placement into a greeting card because they are too thick. Further, there is no teaching, suggestion or motivation in either the admitted prior art or in Sunshine that would lead one of ordinary skill in the art to form a scented wax into a shape conducive to placement in a greeting card or to include a greeting card message, a greeting card design, or both in the wax melter.

"The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness." *In re Oetiker*, 977 F.3d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992). A wax tart is used to release a scent into the air as it is melted. A wax bowl ring is used as a gasket to set closet bowls. There is no teaching to combine a plumber's gasket wrapping with a wax tart wrapping.

Additionally, the Sunshine mold and distribution package replaces procedures of using permanent metal molds from which the wax gaskets are removed and packaged separately in boxes. (Column 1, paragraphs 1 and 2). "In shipping and in handling, the gasket or ring was sometimes damaged and consequently the purchaser would be required to unpackage the device in order to determine whether or not the nature and quality of the rings was satisfactory for usage." (Column 1, paragraph 2).

A wax tart is functional for usage even if damaged. The shape of the wax tart does not affect the functionality of using it – to melt it. This is unlike using a wax bowl

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ring, which, if damaged, compromises the integrity of the product and can be un-usable. There is no motivation, therefore, to combine the mold and distribution package of the wax bowl ring with the wax tart because the integrity of the tart is not a determinant factor in whether the tart can be used. Unlike the wax bowl ring, the wax tart is not used as a sealing component.

Wax tarts are also small and compact, to be used in a potpourri burner, so there is little room to damage the tart beyond surface blemishes. Wax tarts, therefore, would not have the same shipping problems as Sunshine's wax gaskets, and, thus, there would be no motivation to look to the packaging of Sunshine where damage to the wax tart during shipping does not affect its use.

Thus, there is no teaching, suggestion or motivation contained in either the admitted prior art (wax tarts) or Sunshine (plumber's wax bowl ring) to combine their teachings and arrive at Applicant's invention. This can only occur by using impermissible hindsight.

In light of the above amendments and arguments, Applicant respectfully submits that the 35 U.S.C. § 103(a) rejections of claims 1-6 have successfully been traversed. Allowance of these claims is therefore requested.

The Office has rejected Claims 7-20 under 35 U.S.C. 103(a) as being unpatentable over the Applicant's admitted prior art on page 2, paragraph [0004] in view of Sunshine as applied to claims 1-6 and further in view of Knight. The Office contends

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that Applicant's admitted prior art in view of Sunshine discloses the Applicant's basic inventive concept except for attaching the wax melter to a greeting card. The Office states that Knight shows in figure 1-4 the idea of removably attaching a gift to a greeting card by placing the gift within a pocket (see figure 4). The Office contends that in view of the teachings of Knight, it would have been obvious to one in the art to modify Applicant's admitted prior art in view of Sunshine since this would allow the wax melter to be given as a gift in a more amusing, thoughtful, and aesthetically pleasing manner. Applicant respectfully traverses.

Applicant has amended independent claims 7 and 14 to include a greeting card wax melter having a greeting card message, a greeting card design, or both, and a block-shaped wax body. As stated above, one of ordinary skill in the art would not be motivated to combine the admitted prior art and Sunshine to provide Applicant's claimed invention as they apply to Claims 1-6. Knight also fails to provide the suggestion or motivation to one of ordinary skill in the art to render Applicant's invention obvious.

Knight discloses a greeting card that is adapted to serve as a gift wrapping for a garment. The greeting card has a pocket to receive the garment formed by a sheet of transparent material attached to the inside of the rear cover. The front cover has a window through which the garment is visible. The greeting cards acts as the gift-wrapping where part of the garment can be seen through the front cover window when the garment is placed in the pocket.

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Applicant's invention is a molded block-shaped wax body that is disposed in a cavity defined by the shaped recess of the panel enclosure and the closure panel. The panel enclosure is preferably transparent or translucent to display at least part of the wax body in the shaped recess. (Applicant's disclosure, paragraph [0015]). The panel enclosure, the closure panel and the molded, block-shaped wax body together form the greeting card melter. The greeting card melter includes a greeting card message, a greeting card design, or both. The greeting card melter is combined with a greeting card where the greeting card has a sleeve for receiving the greeting card melter. The sleeve may preferably include a window so that the greeting card melter with its greeting card message, greeting card design, or both is visible. (See Applicant's Figures 4-6).

No where in Knight is there a suggestion or motivation to include an object other than a garment such as a tee-shirt. Neither the admitted prior art nor Sunshine provide the motivation to combine scented wax with a greeting card. As discussed above, one of ordinary skill in the art would not be motivated to enclose the wax tart in a molding and distribution package like that of Sunshine since, unlike Sunshine, any damage to the wax tart would not impede the use of the wax tart for its intended purpose. Further, there is no suggestion or motivation in the admitted prior art or Sunshine to change the shape of the wax tart to a thinner, more acceptable shape conducive to inclusion in a sleeve of a greeting card. Neither is there any suggestion or motivation in the admitted

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prior art or Sunshine to include a greeting card message, a greeting card design, or both to form Applicant's invention.

The Office fails to show some suggestion or motivation in the cited prior art that makes it obvious to one of ordinary skill in the art to provide a plurality of greeting cards with wax melters inside. The Office simply draws a broad, general conclusion using the benefit of hindsight of Applicant's invention, which is insufficient to present a prima facie case of obviousness. The Federal Court has stated that to prevent the use of hindsight based on the invention to defeat patentability of the invention, the examiner is required to show a motivation to combine the references that create the case of obviousness. *In re Rouffat*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998).

In light of the above amendments and arguments, Applicant respectfully submits that the 35 U.S.C. § 103(a) rejection of claims 7-20 has successfully been traversed. Allowance of these claims is therefore requested.

CONCLUSION

Applicant respectfully submits that the amendments and arguments presented herein successfully traverse the 35 U.S.C. §102 rejection of Claims 1, 2, 5, and 6 as being anticipated by Sunshine, the 35 U.S.C. §103(a) rejection of Claims 1-6 as being unpatentable over applicant's admitted prior art in view of Sunshine, and the 35 U.S.C. §103(a) rejection of Claims 7-20 as being unpatentable over applicant's admitted prior

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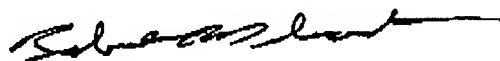
art in view of Sunshine as applied to Claims 1-6 and further in view of Knight.

Allowance of Claims 1-20 is therefore requested.

Applicant believes that all of the pending claims should now be in condition for allowance. Early and favorable action is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

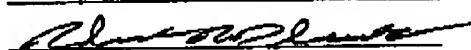


Dated: 6/30/05

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Robert R. Deleault


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Greeting Card Melter and Greeting Card**BACKGROUND OF THE INVENTION****1. Field of the Invention**

5 **[0001]** The present invention relates generally to wax tarts. Particularly the present invention relates to a wax tart-type component packaged and formed to display a message, a design or both. More particularly, the present invention relates to a wax tart-type component displaying a message, a design or both, and a greeting card.

10

2. Description of the Prior Art

[0002] The use of wax for candles has been around for several centuries. However, it was not until the Middle Ages when beeswax was introduced. More recently, the 18th century whaling industry brought the first major change in candle making. Spermaceti, a wax obtained by crystallizing sperm whale oil, became
15 available in quantity.

[0003] It was during the 19th century when most major developments affecting contemporary candle making occurred when a machine was invented to allow continuous production. Further developments occurred around 1850 with the
20 production of paraffin wax made from oil and coal shales. With the introduction of the light bulb in 1879, candle making declined until the turn of the century when a renewed popularity for candles emerged. With the increase of crude oil and meat

is contained within a second cylindrical container manufactured from similar material and capable of sliding up and down within the second cylinder to facilitate the lighting of the candle. The outer container is characterized by colored designs appropriate to the greeting involved so that, when the candle is burning, the designs become illuminated by the candle flame burning within the inner candle container.

[0010] U.S. Patent No. 4,035,937 (1977, Rosenfeld) discloses a candle with integral cardholder. The candle has on the periphery thereof circumferentially spaced, vertical ribs respectively provided therein with circumferentially spaced, vertical, opposed grooves which face each other circumferentially and which are adapted to receive vertical edges of a card, or similar article.

[0011] A device known as a candle card has also been available. The company Sourire at www.sourire-nyc.com sells a product known as the Kwanzaa Candle Card that is illustrative of such candle cards. The candle card has an unattached layer of 100% bees wax folded over the card itself. The unattached bees wax layer is ready to be rolled by the recipient into a hand-made candle.

[0012] As evidenced from the previous discussion, a considerable amount of thought has gone into expanding the already wide variety of greeting cards available. Yet, there are unfulfilled areas of expansion that other types of gifts typify. Accordingly, there exists in the greeting card art a need for a new greeting card concept.

[0013] Therefore, what is needed is a greeting card concept that provides a wax-based gift bearing a chosen sentiment. What is further needed is a greeting card